

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
U.S. Bankruptcy Court
WDNC, Charlotte, NC

APR 27 1999

IN RE:

DAVID R. YOUNG, and
JANET O. YOUNG,

Debtors.

LARRY M. STILES, Trustee,
Plaintiff,

vs.

C.C. BANKHEAD, III LIVING
TRUST,

Defendant.

Bankruptcy No. 98-30735

JUDGEMENT ENTERED ON APR 27 1999

Adversary Proceeding
No. 98-3115

Geraldine Trautelaar Crockett,
Clerk
/ta

ORDER

This matter came before the Court on a sua sponte order to show cause, directed to C.C. Bankhead, Shirley Bankhead and their various aliases and business pseudonyms. That order required the parties to appear and show cause why they should not be sanctioned for apparent violations of 11 U.S.C. § 110 and N.C.G.S. 84-4 relating to the unauthorized practice of law. Hearings on the matter were held on March 19, 1999 and March 22, 1999. Based on the evidence presented at the hearing, the Court finds that C.C. Bankhead and Shirley Bankhead violated 11 U.S.C. § 110 by not complying with the requirements the Bankruptcy Code places on petition preparers, and finds that the Bankhead's were engaged in the unauthorized practice of law. Due to the harm occasioned by

their activities, sanctions and a permanent injunction are appropriate.

Procedural History

The following facts and legal conclusions have been previously established in this bankruptcy case or are apparent from the record. On March 27, 1998, David and Janet Young filed a Chapter 7 bankruptcy petition in this Court, along with schedules, a summary of schedules, a statement of financial affairs, and an application to pay their filing fee in installments. The Young's bankruptcy schedules turned out to be materially deceptive and defective in a variety of ways, the most important of which was the Young's intentional failure to disclose real property which they owned.

The petition stated that the Youngs were pro se petitioners. What it did not say was that the Youngs were being guided in their bankruptcy filing by C.C. Bankhead and his ex spouse, Shirley Bankhead, who had prepared that petition and schedules, and who had counseled the Youngs not to disclose their real estate or secured debt.

On March 31, 1998, Larry M. Stiles was appointed Chapter 7 trustee for the Youngs' bankruptcy estate. Through questioning at the Young's first meeting of creditors on May 5, 1998, the trustee discovered their omissions. Due to the Young's failure to list real estate as well as a number of problems with the petition, such as failing to declare exemptions, the Trustee demanded that the Youngs file amended schedules.

On May 20, 1998, the Youngs filed an amended petition, amended schedules A-D, E-G, and I-J, an amended summary of schedules, and an amended statement of financial affairs. The Youngs filed second amendments to schedules A-D on June 12, 1998, along with a summary of schedules. Once again, the Bankheads were involved in the preparation of these amendments. Again, this involvement was not disclosed.

The problems with the Young's schedules were not technical omissions, but intentional acts designed to defraud the Young's creditors and this Court. After bankruptcy, Bankhead had suggested that the Youngs deed their home ("the Clover Hitch property") to him and backdate the deed to make it appear that they did not own the property on the filing date.

On August 4, 1998, the trustee filed a motion for turnover in the Youngs' bankruptcy case, seeking to recover the Clover Hitch property. On the same day, the trustee filed an adversary proceeding (Larry M. Stiles vs. The CC Bankhead, III, Living Trust, adversary no. 98-3115), seeking to avoid the transfer of the Clover Hitch property as an unauthorized postpetition transfer under 11 U.S.C. 549.

On August 5, 1998 a Response to the Trustee's Motion as well as a Motion to Deny the Motion for Turnover were filed in David Young's name in the base bankruptcy case. Each was prepared by the Bankheads for the Youngs to file.

In the adversary, no response was filed by the Defendant, the C.C. Bankhead Trust, a C.C. Bankhead alias, until September 17,

1998. On that date, a motion to dismiss was filed by the defendant and signed by C.C. Bankhead. The body of that motion bears a striking resemblance to the motions filed in the base case under the name of David Young.

After the motion for turnover was filed in the base case, the Youngs, decided it was time to hire an attorney, and essentially "started over" by having their initial discharge rescinded, and filing a new petition and schedules.

On November 16, 1998, this Court denied the Defendant's Motion to Dismiss in the adversary proceeding. That Order directed the Defendant to file an Answer within twenty days. The Defendant failed to respond in that time period, and default was entered. A default judgment hearing was held on January 14, 1999 to determine the Trustee's damages. The Court awarded the Trustee actual damages of \$15,000 with interest from the judgment date and attorney's fees of \$14,817 plus costs, for a total damages award of \$29,817.¹

Subsequent to the damages hearing, the court entered the show cause order that is the basis of the present order.

Additional Findings of Fact Drawn from the Show Cause Hearing

1. C.C. and Shirley Bankhead operate under a variety of assumed aliases,² but effectively maintain one business³ operated

¹Alternatively, the Trustee was entitled to avoid the transfer and to remarket the property.

²The d/b/a names that were referenced at the hearing are the following: At-one-ment, ABC Productions, Dr. C.C. Bankhead III Homeopathic Treatment, ABC Personal Training, Dr. C.C. Bankhead III Accountant, A Affordable Associates Real Estate Services, C.C. Bankhead III Living Trust, A Plus Office Supplies, Alert Communications, A Plus Computer Sales, AAA

out of one location. Of all their pseudonyms, only AAA Phone Central has a telephone listing. C.C. Bankhead shares phone and fax lines with the entities that are putatively run exclusively by Shirley Bankhead. The primary location of all the businesses is 214 N. Little Texas Rd., Kannapolis, North Carolina, which is a home owned by C.C. Bankhead's parents.

2. Shirley Bankhead is paid a salary by C.C. Bankhead for support services given to the related entities.

3. None of the named entities are actually independent legal entities. Rather they exist only as pseudonyms of C.C. and Shirley Bankhead.

4. The Youngs first met C.C. Bankhead in November or December of 1997. David Young had been introduced to Mr. Bankhead by a mutual acquaintance due to Young's interest in investing in real estate. Paradoxically, instead of real estate investing, by February, 1998 and after reviewing their financial information, C.C. Bankhead was suggesting to the Youngs that they file for bankruptcy.

Solutions Unlimited, AAA Diversified Financial Services, A Affordable Associates Self Help Law Center, AAA Office Solutions, AAA Phone Central, AAA Secretarial Services, and A Affordable Associates. All of these entities, along with any other that exist are jointly and severally liable with the Bankheads under this order.

³C.C. Bankhead says he creates businesses for others. From the Court's observations, he is really a scam artist. If you have some money, Mr. Bankhead has an idea for which he will charge you. Here the Youngs had some cash and a house. Both ended up with Bankhead.

5. To this end, C.C. Bankhead supplied the Youngs with the forms and a "typing service" to prepare the bankruptcy petition and schedules.

6. David Young gave C.C. Bankhead a group of documents that he had collected when he applied for a second mortgage on his home the previous year. Bankhead reviewed the documents and prepared the Youngs' petition from that information.

7. David Young received the completed forms from the Bankheads with their instructions on how to file them. C.C. Bankhead also drafted the pleadings David Young filed in the case in response to the Trustee's turnover motion. These pleadings are almost identical in language to the ones he filed on his own behalf in the adversary proceeding, and bear the same typeface and writing style.⁴ There is no doubt that they were prepared by the same person. David Young on the stand had no clue how to read the case citations found in his pleadings. On the other hand, C.C. Bankhead has cited these same cases to the court throughout the adversary proceeding with fluidity. Taken together, the undersigned has no doubt C.C. Bankhead drafted these pleadings.

8. The papers that the Bankheads prepared for the Youngs are the following: the first petition, the first set of schedules, the first statement of financial affairs, the May 20, 1998 amended schedules, the May 20, 1998 amended statement of financial affairs,

⁴A comparison of the Bankruptcy Administrator's Ex. 14 with the Bankruptcy Administrator's Ex. 17 will reveal the blatant similarities. Exhibit 14 is the affidavit of David R. Young, and exhibit 17 is the affidavit of C.C. Bankhead. Both contain references to the same case law, and make almost identical arguments.

the application to pay filing fees in installments, the June 12, 1998 amended schedules, the response to the Motion for Turnover, the Motion to Deny Turnover and the Affidavit of David Young.

9. The Bankheads attempted to help the Young's hide their assets. Specifically, C.C. Bankhead had the Youngs deed over this property to his alias, the C.C. Bankhead Living Revocable Trust at the time the petition was filed. At C.C. Bankhead's suggestion, the deed was backdated to make it appear that the property had been conveyed a year before bankruptcy in repayment of a debt. In fact, and as found in the adversary, the deed was not recorded until May 28, 1998 and while the Young's bankruptcy case was pending.

10. The Bankheads gave legal advice to the Youngs on several occasions. They instructed them what their rights were under the Bankruptcy Code, suggested that they file, and then completed their petition and schedules for them. While the case was pending they prepared motions and affidavits for the Youngs to file with the Bankruptcy Court. When the Trustee pointed out deficiencies in the petition and schedules, the Bankheads prepared amended documents.

Legal Discussion

As part of the 1994 Bankruptcy Reform Act Congress enacted 11 U.S.C. § 110, which provides a penalty for persons who negligently or fraudulently prepare bankruptcy petitions. The need for this Section is noted in the legislative history of Section 110 which provides:

Bankruptcy petition preparers not employed or supervised by any attorney have proliferated across the country. While it is permissible for a petition preparer to provide services solely limited to typing, far too many

of them also attempt to provide legal advice and legal services to debtors. These preparers often lack the necessary legal training and ethics regulation to provide such services in an adequate and appropriate manner. These services may take unfair advantage of persons who are ignorant of their rights both inside and outside the bankruptcy system. H.R. REP. No. 103-834, at 40-41.

To deal with this problem, Section 110 imposes certain affirmative obligations on a petition preparer. Those duties include a requirement that the document be signed by the petition preparer, 11 U.S.C. § 110(b), that the petition preparer place his or her social security number on the prepared document, § 110(c), that the petition preparer furnish the debtor with a copy of any documents filed with the court, § 110(d), that the petition preparer not execute any documents on behalf of the debtor, § 110(e), that the petition preparer refrain from using the term "legal" in any advertisements, § 110(f), that the preparer not collect any payment to cover filing fees, § 110(g), and that the preparer disclose any fee received within ten days of the petition filing date, § 110(h). Failure to comply with these requirements may result in a maximum fine of \$500 for each violation.

Section 110 further gives the bankruptcy court the power to enjoin the petition preparer either permanently or from performing specific acts. 11 U.S.C. § 110(j). Finally, there is a provision under which the trustee, debtor or a creditor may receive further damages after a hearing in the District Court. 11 U.S.C. § 110(i).

The bankruptcy court's rulings and award of damages under all subsections except 110(i) are final orders of the court and may be appealed in the normal fashion. See Interpreting 11 U.S.C. § 110

Which Governs Conduct of Non-Lawyer Bankruptcy Petition Preparers and Delineating the Relationship, Powers and Functions of the Bankruptcy Court and the District Court Under the Statute, 198 B.R. 604 (C.D. Cal. 1996).

The Bankheads are Petition Preparers

Section 110(a)(1) defines a "bankruptcy petition preparer" as a "person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing." A "document for filing" is a "petition or any other document prepared for filing by a debtor" in a bankruptcy court. 11 U.S.C. § 110(a)(2).

The Bankheads qualify as petition preparers. Shirley Bankhead admitted that her business typed up the forms the Youngs filed with this Court. Shirley Bankhead is not an attorney or an employee of an attorney. She also received compensation for the preparation of the forms. She clearly fall into the definition of a bankruptcy petition preparer.

C.C. Bankhead is also a petition preparer. He was the person the Youngs went to for legal advice. He helped them with the content of the various petitions, schedules, amendments and motions that the Youngs filed with this Court. C.C. Bankhead is not an attorney or an employee of an attorney, and he received approximately \$600 for the services he performed for the Youngs. He also clearly falls under the petition preparer definition.

Obligation to Sign Documents

Section 110(b) states:

(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on

the document the preparer's name and address.

(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than \$500 for each such failure unless the failure is due to reasonable cause.

Neither of the Bankheads signed any of the documents they prepared for the Youngs in this case. The Bankheads, as petition preparers, are subject to the affirmative duty found in this subsection. Their failure to comply results in a \$500 fine for each violation. The documents which the Bankheads failed to sign are the following: (1) The voluntary petition filed 3/27/98; (2) the Schedules filed 3/27/98; (3) the Statement of Financial Affairs filed 3/27/98; (4) the Application to Pay Filing Fees in Installments filed 3/27/98; (5) the Amended Schedules filed 5/20/98; (6) the Statement of Financial Affairs filed 5/20/98; (7) the Amended Schedules filed 6/12/98; (8) the Reply to Trustee's Motion for Turnover filed 8/5/98; (9) the Motion to Deny Motion for Turnover filed 8/5/98. The Court determines that the Bankheads' conduct in this matter warrants the full fine of \$500 for each violation, for a total fine under this subsection of \$4,500.

Failure to Include Identifying Number

Section 110(c) states:

(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after preparer's signature, an identifying number that identifies individuals who prepared the document.

(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than \$500 for each such failure unless the failure is due to reasonable cause.

Neither of the Bankheads placed an identifying mark on any of the documents filed with this Court that they prepared. The Bankheads, through their various businesses, prepared the documents listed above, and failed to include an identifying mark. They have violated this subsection with regard to the same nine documents. Because of their egregious conduct in the case, this Court determines that they are to be fined \$500 for each document, for a total fine of \$4,500 under this subsection.

Failure to Disclose Compensation

Section 110(h) states:

(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

(2) The court shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of services rendered for the documents prepared. An individual debtor may exempt any funds so recovered under section 522(b).

(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

(4) A bankruptcy petition preparer shall be fined not more than \$500 for each failure to comply with a court order to turn over funds within 30 days of service of such order.

Under this statute, the Court must first order disallowance and/or disgorgement of the fee to the trustee. The Court has this authority, not only under section 110(h), but also under 11 U.S.C. § 105(a). United States Trustee v. Womack, 201 B.R. 511, 517 (Br. E.D. Ark. 1996).

The Bankheads' involvement in this case has caused excessive aggravation and has cost the estate a great deal of money because of the need to file the fraudulent transfer action. Turnover to the trustee of the \$599 fee paid by David Young to C.C. Bankhead's business, A Affordable Associates, is small compensation, but is appropriate. Turnover is to occur within thirty (30) days.

Injunction

Section 110(j) provides for two types of injunctions that may be imposed by the Bankruptcy Court. That section states:

(1) A debtor for whom a bankruptcy petition preparer has prepared a document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy petition preparer resides, had conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

(2)(A) In an action under paragraph (1), if the court finds that —

(i) a bankruptcy petition preparer has —
(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty
(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

(ii) injunctive relief is appropriate to prevent the recurrence of such conduct, the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in subclause (I), (II), or (III) of clause (i) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

(3) The court shall award to a debtor, trustee, or

creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

The statute allows the Court to enjoin specific conduct of the petition preparer or to enjoin the preparer from acting as a petition preparer. Womack, 201 B.R. at 519. This Court feels that a permanent injunction is appropriate in this case. The Bankheads have failed to comply with most of the provisions of section 110, and in fact testified that they were unaware of the requirements imposed on them under the bankruptcy code through this provision. Additionally, both were involved in a blatant attempt to defraud the Youngs' creditors by failing to list their real property and secured debt on their schedules, and by back-dating the deed to February 1997, a time before the Youngs and the Bankheads became acquainted. The back-dating of the deed is even more egregious, because it involved Shirley Bankhead's misuse of her notary seal. These acts have been found to be a violation of 11 U.S.C. 549, that is an unauthorized postpetition transfers. They violate Code Section 521, which requires a debtor under penalty of perjury to disclose all of his assets and liabilities. Taking fees in a case where the debtors have requested the chance to pay their filing fee in installments violates Bankruptcy Rule 1006(c). These acts appear to be bankruptcy fraud under 18 U.S.C. 152 et. seq. Indeed the matter has been referred to the U.S. Attorney for his consideration of whether an indictment should be sought.

The Bankheads' involvement in this bankruptcy has been at a great cost to the bankruptcy estate. But for the Young's change

heart after the first meeting and subsequent cooperation with the Trustee to undo this damage, it would have cost the Youngs their discharge, as well.

It is clear that the Bankheads have not prepared a lot of petitions, since the forms they used were ten years out of date. However, they seem to be wholly unconcerned about the consequences of their actions and they cannot be relied upon to comply in the future with the statutory duties imposed on petition preparers. Accordingly the undersigned will permanently enjoin the Bankheads from acting as bankruptcy petition preparers.

Unauthorized Practice of Law

The decision to permanently enjoin the Bankheads is also supported by state law, because their actions in this case have violated the North Carolina prohibitions against the unauthorized practice of law.

State law is to be considered in determining whether the unauthorized practice of law has occurred. In re Lyvers, 179 B.R. 837, 840 (Bankr. W.D. Ky. 1995). North Carolina General Statute section 84-2.1 defines "practice law" as:

Performing any legal service for any other person with or without compensation. . . specifically including the preparations of deeds. . . or preparing any petitions in any court proceeding. . . assisting by advise regarding legal work or legal rights.

Additionally, North Carolina state law prohibits non-lawyers from holding themselves out as qualified to give legal advice, furnishing the services of a lawyer, or preparing legal documents for another person. N.C. Gen. Stat. § 84-4 (1995). Under the North

Carolina statutes, any person guilty of violating the prohibition against the unauthorized practice of law is to be charged with a Class 1 misdemeanor. While there is no civil remedy under state law, the remedy of injunction to prevent unlicensed persons from practicing law is universally recognized by the courts. Lyvers, 179 B.R. at 840.

The bankruptcy court for the southern district of Florida has established guidelines for what typing services may do for a potential debtor, without breaching the unauthorized practice of law guidelines. They are:

1. Typing services may only copy the written information furnished by the clients.
2. They may not advise clients as to the various remedies and procedures available.
3. They may not make inquiries nor answer questions as to the completion of certain forms nor advise how to best fill out forms or complete schedules,
4. They may sell forms and any printed material purporting to explain bankruptcy practice and procedure to the public.
5. They may not engage in personal legal assistance in conjunction with typing activities, including correcting errors and omissions. In re Bachmann, 113 B.R. 769, 774 (Bankr. S.D. Fla. 1990).

This court agrees with the Florida bankruptcy court that these are appropriate restrictions for a typing service, apart from Section 110. The Bankheads insisted that they were only providing a typing service to the Youngs. However, they clearly violated several of the guidelines above. They filled out the forms for the Youngs, C.C. Bankhead prepared motions on behalf of the Youngs, and they advised the Youngs on how to complete their schedules,

specifically telling them to omit the Clover Hitch property. In short, they were practicing law, and badly, at that.

Based on the Bankheads' violations of the North Carolina law regarding unauthorized practice of law, together with the violations of the guidelines for "typists," the Court finds that the best remedy is to enjoin the Bankheads from providing their services to assist in preparing bankruptcy petitions in this District. This conclusion is reinforced when paired with the injunctive powers given to this Court under section 110(j). The Bankheads are unable and unwilling to comply with the duties imposed by the Bankruptcy Code and they are in violation of state law regarding the unauthorized practice of law. As a result they should be prohibited from engaging in any "typing" or preparation services of bankruptcy petitions in the Western District of North Carolina.

Certification to the District Court

Section 110(i) states:

(i)(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy papers, including papers specified in section 521(1) of this title, the negligence or intentional disregard of this title or the Federal Rules of Bankruptcy Procedure by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor —

- (A) the debtor's actual damages;
- (B) the greater of —
 - (i) \$2,000; or
 - (ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services;

and

(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

(2) If the trustee or creditor moves for damages on behalf of the debtor under this subsection, the bankruptcy petition preparer shall be ordered to pay the movant the additional amount of \$1,000 plus reasonable attorneys' fees and costs incurred.

The Bankruptcy Administrator has asked the Court to certify the facts in this case to the District Court under section 110(i). This section involves a two-tiered procedure with both courts involved. Initially, the bankruptcy court is to look at the facts around the alleged misconduct by the petition preparer and then, if violations of the code are found, the bankruptcy court is to certify the facts to the District Court. Then either the debtor, trustee or a creditor brings a motion based on the certified facts in front of the District Court. The statute contemplates the U.S. District Court holding a hearing and if it affirms the bankruptcy court's findings of fact, the District Court is called upon to impose the penalties described under section 110(i).

In certifying this action to the District Court, this Court makes the following factual findings:

1. The Bankheads are petition preparers.
2. They failed to comply with three of the affirmative requirements under section 110.
3. They attempted to hide assets of the debtor that had been fraudulently transferred to them, committing a fraudulent act and therefore section 110(i) applies to them.

4. The Bankheads are unable to comply with the bankruptcy code and as a result are to be enjoined from acting as petition preparers in this District.

5. The actions committed by the Bankheads have resulted in substantial damages to the Debtors' bankruptcy estate. Including the damages found below and those awarded the Trustee in the adversary proceeding, the total damages caused the creditors of this estate by the Bankheads are \$39,416.

6. In the adversary that the Trustee brought against the Bankheads to recover the rental property that was not disclosed in the Youngs' petition, the Court awarded approximately \$15,000 in attorneys' fees to the Trustee. The current proceeding has also caused the trustee to incur attorneys' fees and also fees for his own time. The actual damages under section 110(i)(1)(A) include these costs to the estate. The Bankheads have caused enough mischief in this case that they should be required to make the estate whole. As a result the actual damages in this case should include Trustee fees of \$ 3,960⁵ and Trustee's attorneys' fees of \$2,400.⁶

7. The amount under section 110(i)(1)(B) is \$2,000, being the greater of that sum or double the fees paid by the Youngs to the Bankheads for their services.

⁵ Reflecting the Trustee's 36 hours in this case at \$110 per hour.

⁶ Reflecting 10 hours of attorney's time at \$240 per hour.

8. Reasonable attorneys' fees for bringing the certification hearing to the District Court should be granted, and should the certification motion be brought by the trustee, he should be awarded the \$1,000 provided for under section 110(i)(1)(C).

This section also contemplates the award of damages to debtors victimized by petition preparers who violate section 110. At the hearing, the Debtors moved for the award of damages to them for lost wages and attorneys' fees. This court declined to award the Debtors any damages, awarding damages instead to the bankruptcy estate, because the facts showed that the Debtors were voluntary participants in the Bankheads' attempt to hide the Clover Hitch property. In short, they lack clean hands. The Debtors in this case essentially "turned states evidence" and in doing so were able to continue to participate under the bankruptcy code protections. The Debtors were able to retain their right to a discharge, and that is more than a sufficient award.

That of course, does not however preclude the District Court from awarding damages to the debtors under section 110(I). Section 110 allows the Debtors to collect the greater of the money paid for services or \$2,000, and any attorneys' fees incurred during the certification motion process. The undersigned would suggest that the debtors being able to keep their bankruptcy discharge is generous compensation. However, that is only a suggestion.

WHEREFORE IT IS ORDERED:

1. Judgment is granted in favor of Larry Stiles, as Chapter 7 Trustee, and against C.C. Bankhead, Shirley Bankhead and their

aliases, jointly and severally, in the amount of \$9,599 for the aforementioned violations of 11 U.S.C. § 110.

2. C.C. Bankhead and Shirley Bankhead are permanently enjoined from acting as Bankruptcy Petition Preparers in the Western District of North Carolina.

3. The findings of fact discussed above are hereby certified to the District Court, with the following conclusions regarding damages:

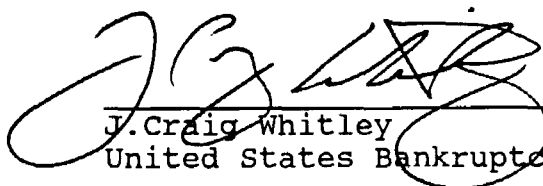
a. The actual damages suffered by the estate include the Trustee's fees, totaling \$3,960, and the Trustee's attorneys' fees, totaling \$2,400, for an actual damages total of \$6,360.

b. The greater figure under 110(i)(1)(B) is \$2,000.

c. Reasonable attorneys' fees should be awarded the trustee under section 110(i)(1)(C), including the \$1,000 damages award should the trustee bring the certification motion.

SO ORDERED.

This the 27th day of April, 1999.


J. Craig Whitley
United States Bankruptcy Judge